

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MIKE TURNER, On Behalf of Himself and All Others Similarly Situated,)	Case No. 04-12294-PBS
)	
Plaintiff,)	Judge Saris
)	
vs.)	
)	
ANDREW J. FILIPOWSKI, MICHAEL P. CULLINANE, PAUL L. HUMENANSKY, TOMMY BENNETT, JOHN COOPER, JAMES E. COWIE, MICHAEL H. FORSTER, ARTHUR W. HAHN, THOMAS J. MEREDITH, J. KEVIN NATER and JOHN RAU,)	
)	
Defendants.)	
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**THIRD ASSENTED TO MOTION TO CONTINUE STATUS CONFERENCE AND
ADJOURN ORAL ARGUMENT ON PLAINTIFF'S MOTION TO REMAND**

Plaintiff Mike Turner and defendants Andrew J. Filipowski, Michael P. Cullinane, Paul L. Humenansky, Tommy Bennett, John Cooper, James E. Cowie, Michael H. Forster, Arthur W. Hahn, Thomas J. Meredith, J. Kevin Nater and John Rau, by their undersigned counsel, hereby move this Court to (i) continue the status conference from September 22, 2005 to November 3, 2005 at 2:00 p.m. or until a later date selected by the Court; and (ii) adjourn the oral argument on plaintiff's Motion for Reconsideration of Remand (the "Motion to Remand") to November 3, 2005 at 3:00 p.m. or until a later date selected by the Court. As reasons therefor, the parties state:

1. On May 17, 2005, plaintiff Turner filed an Assented to Motion to Continue Status Conference and Adjourn Oral Argument on Plaintiff's Motion to Remand (the "Motion to Continue"), which sought to continue the scheduled status conference and hearing on plaintiff's Motion to Remand to July 19, 2005.

2. By electronic Order dated May 18, 2005, the Court granted the requested Motion to Continue and set oral argument on the Motion to Remand for July 19, 2005. By electronic Order dated May 13, 2005, this Court had also scheduled oral argument for the motion to dismiss filed in *Bobbitt v. Filipowski*, No. 1:04-cv-12263-(PBS), for July 19, 2005. On July 7, 2005 lead plaintiffs in the *Bobbitt* action again moved to adjourn oral argument until a later determined date. On July 11, 2005, this Court granted the *Bobbitt* motion, continuing the hearing on the motion to dismiss until September 22, 2005 at 3:00 p.m.

3. On July 11, 2005 plaintiff Turner filed his Second Assent to Motion to Continue Status Conference and Adjourn Oral Argument on Plaintiff's Motion to Remand (the "Second Motion to Continue"), which sought to continue the scheduled status conference and hearing on plaintiff's Motion to Remand to September 22, 2005. By electronic Order dated July 12, 2005, the Court granted the requested Second Motion to Continue and set oral argument on the Motion to Remand for September 22, 2005 at 3:00 p.m.

4. On August 11, 2005 lead plaintiffs in the *Bobbitt* action again moved to adjourn oral argument until a later determined date. By electronic Order dated August 15, 2005, the Court granted the *Bobbitt* motion, continuing the hearing on the motion to dismiss until November 3, 2005 at 2:00 p.m.

5. On June 29, 2005, the parties conducted a full day mediation with former United States District Judge Layn R. Phillips in an attempt to mediate the claims in this action. While the mediation was productive and great progress was made, the parties recognized that the mediation could not be completed in one day's time and a subsequent mediation session would be required. The parties are working to schedule a later date for such mediation and believe that a resolution of these claims can be made reasonably soon. For this reason, the parties respectfully submit that it would once again be in all parties' interests to adjourn the status conference and hearing on the Motion to Remand so that the parties can devote their time, energy and resources to the complex negotiations that resolution of this matter will require.

6. The parties have conferred and all parties agree to this motion.

WHEREFORE, the parties respectfully request that this Court enter an Order to continue the status conference and to reschedule the oral argument scheduled for September 22, 2005 at 3:00 p.m. to November 3, 2005 at 3:00 p.m. or until a later date selected by the Court.

DATED: September 12, 2005

Respectfully Submitted,

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RULE 7.1 CERTIFICATION

I, the undersigned counsel, represent that I have conferred with counsel of record in good faith with an eye towards resolving or narrowing the disputes in this matter. Defendants do not oppose this motion.

s/ Marc M. Umeda

Marc M. Umeda